



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,141	12/06/2000	Daniel W. Sexton	30-GF-1100	8687

7590

05/06/2003

John S. Beulick
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis, MO 63102

EXAMINER

PHAM, THOMAS K

ART UNIT

PAPER NUMBER

2121

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/731,141

Applicant(s)

SEXTON, DANIEL W.

Examiner

Thomas K Pham

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Notice to Applicant(s)

1. Claims 1-18 of U.S. Application 09/731141 filed on 12/06/2000 are presented for examination.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1- 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papadopoulos U.S. Patent No. 6,282,454 in view of Eady U.S. Patent No. 6,304,788.
3. As for claim 1, Papadopoulos shows a method for controlling and monitoring an industrial controller using a portable wireless device, utilizing a system including a programmable logic controller (PLC), a local server, and a wireless Internet Service Provider (ISP), said method comprising the steps of: monitoring and controlling a system using a programmable logic controller (PLC) (col. 4 lines 36-46); exchanging communications between the PLC and a local server (col. 4 lines 21-35); exchanging communications between the local server and an Internet Service Provider (ISP) server utilizing the Internet (col. 3 line 59 to col. 4 line 21). Papadopoulos does not specifically show a method comprising the step of: exchanging communications between the ISP server and a wireless user communication device. However, Eady shows a method comprising the step of: exchanging communications between the ISP

server and a wireless user communication device (fig. 3 element 106; and col. 5 lines 21-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Eady with Papadopoulos because it would provide for communicating with a wireless user communication device over the Internet.

4. As for claim 2, Papadopoulos shows a method in accordance with Claim 1 wherein said step of exchanging communications between the PLC server and the local server further comprises the step of sending PLC operational data from the PLC to the local server (col. 5 line 64 to col. 6 line 45).

5. As for claim 3, Papadopoulos shows a method in accordance with Claim 2 wherein said step of exchanging communications between the local server and the ISP server further comprises the step of sending the PLC operational data from the local server to the ISP server (col. 9 lines 56-67).

6. As for claim 4, Papadopoulos does not specifically show a method in accordance with Claim 3 wherein the wireless user communication device includes a display for displaying information, said step of exchanging communications between the ISP server and the wireless user communication device further comprises the steps of: sending the PLC operational data from the ISP server to the wireless user communication device; and displaying the PLC operational data on the wireless user communication device display. However, Eady shows a method in accordance with Claim 3 wherein the wireless user communication device includes a display for displaying information, said step of exchanging communications between the ISP server and the wireless user communication device further comprises the steps of: sending the monitoring device operational data from the ISP server to the wireless user communication

device (fig. 3 element 106; and col. 2 lines 31-46); and displaying the monitoring device operational data on the wireless user communication device display (col. 3 lines 32-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Eady with Papadopoulos because it would provide for communicating and displaying the PLC operational data to the wireless user communication device via the internet.

7. As for claim 5, Papadopoulos does not specifically show a method in accordance with Claim 1 wherein the wireless user communication device includes a user interface for inputting information to the wireless user communication device, said step of exchanging communications between the ISP server and the wireless user communications device further comprises the steps of: inputting at least one PLC command; inputting PLC operational response data using the input device; sending the at least one PLC command from the wireless user communication device to the ISP server; and sending the PLC operation response data from the wireless user communication device to the ISP server. However, Eady shows a method in accordance with Claim 1 wherein the wireless user communication device includes a user interface for inputting information to the wireless user communication device, said step of exchanging communications between the ISP server and the wireless user communications device further comprises the steps of: inputting at least one monitoring device command (col. 3 line 59 to col. 4 line); inputting monitoring device operational response data using the input device (col. 5 lines 60-67); sending the at least one monitoring device command from the wireless user communication device to the ISP server (col. 6 lines 1-10); and sending the monitoring device operation response data from the wireless user communication device to the ISP server (fig. 3 element 106; and col. 5 lines 21-67). It would have been obvious to one of ordinary skill in the art at the time the invention was

Art Unit: 2121

made to combine Eady with Papadopoulos because it would provide for inputting PLC command and operational response data using input devices; for sending command and operational response data to ISP server from the wireless user communication device.

8. As for claim 6, Papadopoulos shows a method in accordance with Claim 5 wherein said step of exchanging communications between the local server and the ISP server further comprises the steps of: sending the at least one PLC command from the ISP server to the local server using the Internet (col. 5 line 64 to col. 6 line 45); and sending the PLC operational response data from the ISP server to the local server using the Internet (col. 5 line 64 to col. 6 line 45)

9. As for claim 7, Papadopoulos shows a method in accordance with Claim 6 wherein said step of exchanging communications between the PLC and the local server further comprises the steps of: sending the at least one PLC command from the local server to the PLC (col. 5 line 64 to col. 6 line 45); and sending the PLC operational data from the local server to the PLC (col. 9 lines 17-29).

10. As for claim 8, Papadopoulos shows a method in accordance with claim 1, wherein said step of monitoring and controlling further comprises the steps of: controlling the operation of the PLC using the at least one PLC command (col. 6 lines 35-45); and controlling the operation of the PLC using the PLC operational response data (col. 9 lines 17-29).

11. Claims 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papadopoulos U.S. Patent No. 6,282,454 in view of Eady U.S. Patent No. 6,304,788.

Art Unit: 2121

12. As for claim 9, Papadopoulos shows a system for controlling and monitoring an industrial controller comprising: a programmable logic controller (PLC) (col. 4 lines 36-46); a local server configured to exchange communication with said PLC (col. 4 lines 21-35); a wireless Internet Service Provider (ISP) server configured to exchange communication with said local server using the Internet (col. 3 line 59 to col. 4 line 21). Papadopoulos does not specifically show a system for controlling and monitoring an industrial controller using a wireless device, said system comprising: a wireless user communication device configured to exchange communication with said ISP server. However, Eady shows a system for controlling and monitoring an industrial controller using a wireless device, said system comprising: a wireless user communication device configured to exchange communication with said ISP server (fig. 3 element 106; and col. 5 lines 21-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Eady with Papadopoulos because it would provide for communicating with a wireless user communication device over the Internet.

13. As for claim 10, Papadopoulos shows a system in accordance with claim 9, wherein said local server further configured to access PLC operation data from said PLC (col. 5 line 64 to col. 6 line 45).

14. As for claim 11, Papadopoulos shows a system in accordance with claim 10, wherein said local server further configured to communicate the PLC operation data to said ISP server (col. 4 lines 21-35).

15. As for claim 12, Papadopoulos does not specifically show a system in accordance with claim 11, wherein said local server further configured to communicate the PLC operational data to said wireless user communication device. However, Eady shows a system in accordance with

Art Unit: 2121

claim 11, wherein said local server further configured to communicate the monitoring device to said wireless user communication device (col. 2 line 46-57). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Eady with Papadopoulos because it would provide for establishing communication between the PLC operation data and the wireless user communication device.

16. As for claim 13, Papadopoulos does not specifically show a system in accordance with claim 12, wherein said wireless user communication device further configured to display the PLC operational data. However, Eady shows a system in accordance with claim 12, wherein said wireless user communication device further configured to display the monitoring device operational data (col. 3 lines 32-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Eady with Papadopoulos because it would provide for displaying the PLC operational data to the wireless user communication device.

17. As for claim 14, Papadopoulos shows a system in accordance with Claim 9 wherein said wireless user communication device further configured to initiate at least one PLC command and communicate the PLC command to said ISP server (col. 4 lines 32-46).

18. As for claim 15, Papadopoulos shows a system in accordance with Claim 14 wherein said wireless user communication device further configured to initiate PLC operational response data and communicate the PLC operational response data to said ISP server (col. 9 lines 56-67).

19. As for claim 16, Papadopoulos shows a system in accordance with Claim 15 wherein said ISP server further configured to communicate the at least one PLC command and the PLC operational response data to said local server (col. 4 lines 32-46).

Art Unit: 2121

20. As for claim 17, Papadopoulos shows a system in accordance with Claim 16 wherein said local server further configured to communicate the at least one PLC command and the PLC operational response data to said PLC (col. 6 lines 35-45).

21. As for claim 18, Papadopoulos does not specifically show a system in accordance with Claim 9 wherein said wireless user communication device comprises: a user interface configured for the input of information to said wireless communication device; and a display configured to display the user input information and information received by said wireless communication device from said ISP server. However, Eady shows a system in accordance with Claim 9 wherein said wireless user communication device comprises: a user interface configured for the input of information to said wireless communication device (col. 3 line 59 to col. 4 line); and a display configured to display the user input information and information received by said wireless communication device from said ISP server (col. 3 lines 32-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Eady with Papadopoulos because it would provide for inputting and displaying user input and received information to the wireless user communication device via the internet.

Response to Arguments

22. Applicant's arguments filed 03/3/2003 have been fully considered but they are not persuasive.

23. In the remarks, applicant argued in substance that (1) In the present case, neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown.

24. In response to applicant's argument (1) that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, a suggestion or motivation to combine the cited art is for communicating with a wireless user communication device over the internet in order to provide/receive services from any where regardless of location.

25. In the remarks, applicant argued in substance that (2) the combination of Papadopoulos et al. and Eady et al. does not describe nor suggest a method for controlling and monitoring an industrial controller using a portable wireless device, and utilizing a system that includes a programmable logic controller (PLC), a local server, and a wireless Internet Service Provider (ISP), wherein the method includes monitoring and controlling a system using a programmable logic controller (PLC), exchanging communications between the PLC and a local server, exchanging communications between the local server and an Internet Service Provider (ISP) server utilizing the Internet, and exchanging communications between the ISP server and a wireless user communication device. No combination of Papadopoulos et al. nor Eady et al. describes or suggests exchanging communications between the ISP server and a wireless user communication device. Rather, in contrast to the present invention, Eady et al. describe exchanging communications between the ISP server and a computer system and exchanging

communications between the computer system and a set of medical-monitoring devices through an IR port, but neither Papadopoulos et al. nor Eady et al. describes or suggests exchanging communications between the ISP server and a wireless user communication device.

26. As to point (2), the Examiner disagrees because Papadopoulos shows a method for controlling and monitoring an industrial controller using a portable wireless device, utilizing a system including a programmable logic controller (PLC), a local server, and a wireless Internet Service Provider (ISP), said method comprising the steps of: monitoring and controlling a system using a programmable logic controller (PLC) (col. 4 lines 36-46); exchanging communications between the PLC and a local server (col. 4 lines 21-35); exchanging communications between the local server and an Internet Service Provider (ISP) server utilizing the Internet (col. 3 line 59 to col. 4 line 21). Papadopoulos does not specifically show a method comprising the step of: exchanging communications between the ISP server and a wireless user communication device. However, Eady shows a method comprising the step of: exchanging communications between the ISP server and a wireless user communication device (fig. 3 element 106; and col. 5 lines 21-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Eady with Papadopoulos because it would provide for communicating with a wireless user communication device over the Internet in order to provide/receive services from any where regardless of location.

27. In the remarks, applicant argued in substance that (3) The combination of Papadopoulos et al. and Eadv et al. does not describe nor suggest a system for controlling and monitoring an industrial controller using a wireless device wherein the system includes a programmable logic

controller (PLC), a local server configured to exchange communication with said PLC, a wireless Internet Service Provider (ISP) server configured to exchange communication with the local server using the Internet, and a wireless user communication device configured to exchange communication with the ISP server. No combination of Papadopoulos et al. nor Eady et al. describes or suggests a wireless user communication device configured to exchange communication with an ISP server. Rather, in contrast to the present invention, Eady et al. describe exchanging communications between the ISP server and a computer system and exchanging communications between the computer system and a set of medical-monitoring devices through an IR port, but neither Papadopoulos et al. nor Eady et al. describes or suggests a wireless user communication device configured to exchange communication with an ISP server.

28. As to point (3), the Examiner disagrees because Papadopoulos shows a system for controlling and monitoring an industrial controller comprising: a programmable logic controller (PLC) (col. 4 lines 36-46); a local server configured to exchange communication with said PLC (col. 4 lines 21-35); a wireless Internet Service Provider (ISP) server configured to exchange communication with said local server using the Internet (col. 3 line 59 to col. 4 line 21).

Papadopoulos does not specifically show a system for controlling and monitoring an industrial controller using a wireless device, said system comprising: a wireless user communication device configured to exchange communication with said ISP server. However, Eady shows a system for controlling and monitoring an industrial controller using a wireless device, said system comprising: a wireless user communication device configured to exchange communication with said ISP server (fig. 3 element 106; and col. 5 lines 21-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine

Eady with Papadopoulos because it would provide for communicating with a wireless user communication device over the Internet in order to provide/receive services from any where regardless of location.

Conclusion

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thomas Pham; whose telephone number is (703) 305-7587 and fax number is (703) 746-8874. The examiner can normally be reached on Monday-Friday from 7:30AM- 4:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on (703) 305-8498 or via e-mail addressed to [joh.follansbee@uspto.gov]. The fax number for this Group is (703) 308-5403.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [thomas.pham@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Application/Control Number: 09/731,141

Page 13

Art Unit: 2121

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Thomas K. Pham
Patent Examiner

tp
May 2, 2003

Ramesh Patel
RAMESH PATEL
PRIMARY EXAMINER 5/2/03
For John Folansbee